

ORIGINAL

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

IN THE MATTER OF: * EB DOCKET NO. 03-85
BUSINESS OPTIONS, INC., * FILE NO. EB-02-TC-151
ORDER TO SHOW CAUSE AND * NAL ACCOUNT NUMBER:
NOTICE OF OPPORTUNITY * 30033217002
FOR HEARING * FRN: 0007179054

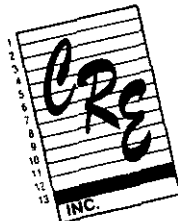
* * * * *

DEPOSITION OF:

WILLIAM BRZYCKI,

was taken Friday, July 18, 2003, commencing at
9:05 a.m., at the LaQuinta Inn, 8210 Louisiana
Street, Merrillville, Indiana, before Nova
Hollister, Notary Public.

* * * * *



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I-N-D-E-X

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(Exhibits included with transcript.)

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1 P-R-O-C-E-E-D-I-N-G-S

2 WHEREUPON --

3 WILLIAM BRZYCKI,

4 a Witness called for examination, having been
5 first duly sworn, was examined and testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. SHOOK:

9 Q. Could you state your full name,
10 please?

11 A. William Brzycki.

12 Q. Could you spell the last name, please?

13 A. B-R-Z-Y-C-K-I.

14 Q. Your residential address?

15 A. 35 Indian Trail, Merrillville, Indiana
16 46410.

17 Q. Your length of time at that residence?

18 A. Two years.

19 Q. Prior to that time?

20 A. 7344 Van Buren in Hammond, Indiana
21 46323.

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1 Q. And your time at that residence?

2 A. About four years.

3 Q. Are you currently employed?

4 A. Yes.

5 Q. The name of your employer?

6 A. Westfield Corporation of America.

7 Q. The folks who run the shopping center
8 across the street from us here?

9 A. Yes.

10 Q. What is that you do there?

11 A. Assistant general manager.

12 Q. How long have you held that position?

13 A. About three months.

14 Q. What were you doing before then?

15 A. Nothing.

16 Q. How long was that period of nothing?

17 A. About five months.

18 Q. What were you doing before that?

19 A. I was working at Buzz Telecom.

20 Q. As some background before we proceed,
21 basically how I intend to do this is to show you

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1 a series of documents which we have reason to
2 believe you have some knowledge about. And
3 basically I'll ask you whether or not you've seen
4 the document before and then depending on what
5 the document is, I'll ask questions specific to
6 the document.

7 A. Okay.

8 Q. And I'm going to try to do this in
9 some sort of chronological order. And hopefully
10 that way, the two of us will stay relatively
11 unconfused about what's going on here.

12 So the first document I want to show
13 you bears Bate Stamp Numbers 00675 through 00678.
14 For your information, Bate Stamp Numbering is
15 simply a method by which all of us in this
16 proceeding can keep track of what it is that
17 we're looking at. It has no other particular
18 significance.

19 A. Okay.

20 Q. And all of the documents or at least
21 most of the documents I'm going to show you have

1 been produced to us in discovery in this
2 proceeding by Business Options, Buzz Telecom,
3 U.S. Bell, whatever it is that the entity is.

4 A. Okay.

5 Q. What is it that I handed to you?

6 A. It's an employment agreement.

7 Q. Between whom?

8 A. Myself and probably Business Options.

9 Yes, Business Options.

10 Q. So and who signed on behalf of
11 Business Options?

12 A. Kurtis Kintzel.

13 Q. And if you could go to the fourth page
14 of what I handed to you, you see the signatures
15 down there?

16 A. Uh-huh.

17 Q. Do you recognize the signatures?

18 A. Yes.

19 Q. One is yours?

20 A. Yes.

21 Q. And the other is?

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1 A. Kurtis.

2 Q. And he signed it in what capacity?

3 A. Chief executive officer.

4 Q. Of?

5 A. Business Options.

6 Q. Was this your first employment with an
7 entity owned or controlled by Kurtis Kintzel?

8 A. I had been employed previous to this
9 by the company, this was my first agreement.

10 Q. When is it that you started to work
11 for the company?

12 A. October 15th, 1995.

13 Q. And that is Business Options Inc.?

14 A. No. That is Creative Financial
15 Options, and that was an entity also owned by
16 Kurtis. Creative Financial Options then was
17 dissolved and I moved to Business Options.

18 Q. What is it that you were supposed to
19 do at Creative Financial Options?

20 A. I started out working in the treasury,
21 handling income. And then I moved up to treasury

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1 manager. And I basically handled all the banking
2 and book-work type of stuff.

3 Q. By handling money, that meant that you
4 were responsible for ensuring that deposits made
5 its way to the bank?

6 A. Yes.

7 Q. And that checks were written and sent
8 to the proper people?

9 A. Yes.

10 Q. Was that both vendor checks and
11 payroll checks?

12 A. Not at the beginning. But after about
13 a year, we had a service doing the payroll.
14 After about a year, we started doing it
15 internally.

16 Q. Doing the payroll would involve making
17 sure that the employees got paid on time?

18 A. Yes.

19 Q. And that Social Security taxes were
20 paid?

21 A. I didn't really handle that aspect of

1 it. I just did the actual calculation and wrote
2 checks for the employees.

3 Q. Calculation, meaning, that which was
4 to go to the employee on a particular day?

5 A. Yes.

6 Q. And somebody else was responsible for
7 ensuring that Social Security got paid?

8 A. Yes.

9 Q. Who was that?

10 A. I would assume it was Kurtis.

11 Q. For purposes of this deposition, if it
12 turns out that I ask you a question that you
13 don't know the answer to, it's perfectly
14 acceptable to say you don't know.

15 A. Okay.

16 Q. What is it that Creative Financial
17 Options did?

18 A. Creative Financial Options was a
19 multi-level marketing company. What they did was
20 sold long distance telephone service at ten cents
21 a minute, which at that time was unheard of.

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1 Nobody was doing it that cheap then.

2 Q. Was the product owned by Creative
3 Financial Services?

4 A. Can you define "owned by"?

5 Q. I'll give you some background and that
6 may help you understand why I'm asking the
7 question the way I did. Currently, it is our
8 understanding that the long distance product that
9 is being sold by the "company" -- and I use that
10 in quotes -- is Business Options Inc. product.
11 On the other hand, all the persons involved in
12 the sales of that product are employed by an
13 entity other than Business Options Inc., either
14 by Buzz Telecom or by Avatar. And Avatar has got
15 some other words attached to it. So that's why I
16 asked the question the way I did.

17 A. I wasn't involved in that aspect of
18 it. But my understanding of it at the time, was
19 that the product was from a carrier in
20 California.

21 Q. Was there -- did there come a time

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1 when you became aware that Business Options Inc.
2 was also selling the long distance product?

3 A. Yes. And maybe a year, a year and a
4 half after I started, I became aware that there
5 was a Business Options. And at that time, the
6 company was not a carrier, but like an agent that
7 sold long distance for another company in
8 California. I don't remember that company's
9 name.

10 Q. Did there come a time when Business
11 Options began selling its own product?

12 A. Yes. They were licensed as a carrier,
13 I believe, in 1996 or 1997.

14 Q. And when you say "licensed," what is
15 it that you're referring to?

16 A. What happened was, they hired an
17 attorney and a company to write tariffs and that
18 kind of thing. And they went out and got their
19 license in each state and with the FCC.

20 Q. So in one sense, when you used the
21 term "license," you're referring to the authority

1 to sell Business Options' product in a particular
2 state?

3 A. Exactly.

4 Q. And that process had to be repeated
5 for however many states in which Business Options
6 wanted to sell its product?

7 A. Yes.

8 Q. Were you involved in any way in
9 obtaining -- preparing the tariff for Business
10 Options at this point in time?

11 A. No.

12 Q. Were you involved in any way in the
13 filing of such tariffs?

14 A. No.

15 Q. Did there come a time when you did
16 become involved in preparing tariffs for Business
17 Options?

18 A. Yes. At some point -- I don't
19 remember the exact dates, I believe it was in
20 1998 -- I was moved out of the operations aspect
21 of the company and into what was called

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1 establishment, which meant that I was over the
2 regulatory area of the company.

3 Q. I may have skipped over something.
4 When this employment agreement was executed, had
5 you previously been involved in Business Options?

6 A. Previous to this, no.

7 Q. "This," meaning the employment
8 agreement?

9 A. Yes. I was not involved.

10 Q. So after the employment agreement, you
11 became involved with Business Options?

12 A. As I recall, yes.

13 Q. Now, if you could sort of paraphrase
14 for us -- not the entire document, of course --
15 but what you understood your basic
16 responsibilities to be as a consequence of
17 signing this agreement.

18 A. Basically, the agreement was signed to
19 ensure that, first of all, I was going to be
20 there for an extended period of time. And
21 secondly, that I was going to take training that

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1 Kurtis wanted all the executives to get trained.
2 My duties were not really set forth in this
3 document as much as -- later, we sat down and
4 worked on that kind of thing. For the most part,
5 this document was written to ensure that if
6 Kurtis was going to put money into training me
7 for the job, I was going to be there for an
8 extended period of time.

9 Q. Initially, what is it that you were
10 supposed to do in connection with this agreement?

11 A. Basically, Kurtis wanted his staff to
12 take classes that were presented at the Church of
13 Scientology in Chicago. And they were management
14 classes. And he wanted to be clear with everyone
15 why he wanted you to take them because they
16 effected your position. And he wanted you to
17 show that you were willing to go and take them.

18 Q. In addition to taking classes, what
19 other job duties did you have?

20 A. At the time when I was transferred
21 over, we had a telemarketing program. And a big

1 part of the job was staffing. That was the most
2 important thing. Secondly, I was given a TV
3 box full of envelopes that were reports and
4 documents from each state and the Federal
5 government that concerned our regulatory affairs.
6 And I was to organize and straighten that out and
7 do any reports that came in and that needed to be
8 filled out.

9 Q. Do you know who it was that had
10 responsibility in the area that you just
11 described?

12 A. Before me?

13 Q. Yes.

14 A. I know that the regulatory information
15 was handled by Kurtis's assistant Liz, I don't
16 remember her last name. And the personnel issues
17 were handled by Scott Clampett (phonetic), who
18 was the vice-president of establishment before
19 me.

20 Q. So there were aspects of the jobs of
21 those two people that you just mentioned, Liz,

1 whatever her last name is and Scott Clampett,
2 that you took over?

3 A. Yes.

4 Q. In terms of the state and Federal
5 regulatory matters that you had to now take
6 responsibility for, what background, if any, did
7 you have in dealing with state regulatory
8 agencies?

9 A. None.

10 Q. What background, if any, did you have
11 in dealing with the Federal Communications
12 Commission?

13 A. None.

14 Q. What background did you have in terms
15 of researching state regulations concerning the
16 operation of telephone resalers?

17 A. None.

18 Q. What background did you have in terms
19 of researching Federal regulations dealing with
20 telephone resalers? And by "telephone resalers,"
21 I mean long distance resale. Speaking only in

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1 the context of the business in which this company
2 operated.

3 A. I did not have any.

4 Q. As a result of -- following the
5 signing of the employment agreement, were you
6 given any training with respect to how to be --
7 how to know what Federal regulations effected
8 what you were doing? Were you given any training
9 as to what state regulations would effect what
10 you were doing?

11 A. No.

12 Q. These were basically things that you
13 were expected to learn on your own?

14 A. Yes. I was given the box and told to
15 organize it. And I was expected to figure it
16 out.

17 Q. Here's a problem, run with it.

18 A. Yes. I think that the mind set was --
19 my mind set at least was, when something came in,
20 I would handle it and get it back out. And
21 that's what I did.

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1 Q. So for example, if an envelope came
2 from a state that said, "We need report X," that
3 would be given to you to handle?

4 A. Yes.

5 Q. And by "handling," it would mean,
6 determine what had to be filled out --

7 A. Try to find the information that was
8 needed and send it back in.

9 Q. And what if there involved a payment
10 of money?

11 A. It depends on how much money. If it
12 was a nominal sum, then I could approve it.
13 Anything over maybe \$200, then I have would have
14 to go to Kurtis to get approval.

15 Q. How long a period of time was that
16 situation in place?

17 A. That number fluctuated, but that was
18 basically the deal until I left the company.

19 Q. So basically, it was like an unwritten
20 company policy?

21 A. I think it actually, at one point, was

1 written. Any sizable amount of money, we had to
2 talk to Kurtis about. Because he was really in
3 charge of all of the, you know, the scheduling
4 and budgeting and all that for the company.

5 Q. In other words, not to commit the
6 company to some payment in excess of \$200 without
7 at least Kurtis knowing about it?

8 A. That's correct.

9 Q. And that situation existed at least
10 from the time of the employment agreement to the
11 time you left?

12 A. Yes.

13 Q. Did there come a time when your -- the
14 duties that you just described to me expanded in
15 any way?

16 A. As we moved along, our telemarketing
17 crew expanded from about six people to 80. So my
18 duties as far as HR expanded greatly. And my
19 duties concerning regulatory issues really
20 remained at a point where when something came in,
21 I handled it or I had someone working for me

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1 handle it. But never really elevated until maybe
2 five or six months before I left the company, I
3 was taken off of the post that handled human
4 resources and just handled legal stuff.

5 And at that point, I had a little more
6 time to kind of go through and research what was
7 going on. And discovered a few things that we
8 were not doing. But until then, I just never had
9 the time to do it. Really the concentration on
10 what I was doing everyday was making sure we were
11 fully staffed. And with a telemarketing crew of
12 40 people per shift, that was a full-time job
13 requirement. There's just a ton of turnover.
14 And we constantly were recruiting, hiring,
15 firing, going through that kind of stuff. So I
16 was very busy doing that.

17 Q. There was a time -- at least one
18 aspect of your job, involved hiring and firing
19 telemarketers?

20 A. Very much so.

21 Q. With respect to the hiring of

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1 telemarketers, did you make the personal decision
2 whether or not a particular telemarketer should
3 be hired?

4 A. Yes.

5 Q. For what period of time did you do
6 that, roughly?

7 A. Five years.

8 Q. Beginning approximately?

9 A. Probably six months after I signed
10 this agreement.

11 Q. So sometime in early 1998?

12 A. Yes.

13 Q. And that situation existed until early
14 to mid 2002?

15 A. Yes.

16 Q. Did you have any assistance or help in
17 terms of whether or not to hire particular
18 telemarketers?

19 A. I did off and on. I would have
20 somebody in personnel who would do that for me or
21 with me. I think for the longest period of time

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1 was maybe six months. Shortly before I left the
2 company, I had a full-time director of personnel.
3 But most of the time that I was there, I would
4 have one or two administrative assistants. And
5 they would handle getting the paperwork done,
6 getting tax forms signed, that kind of thing.
7 Maybe they would be on the computer looking up
8 numbers for me to complete reports for regulatory
9 issues. And I would do the rest of the work.

10 Q. At this point, I'm only going to --
11 for a while, I'm only going to focus on the
12 personnel aspects of things that you described.
13 And so basically, you hired and fired
14 telemarketers. Was there anybody else that you
15 hired or fired?

16 A. I hired and fired the entire staff
17 with the exception of managers and executives.
18 And an executive level person, Kurtis and Keanan,
19 would typically -- I would interview once. And
20 if I thought they were okay, they would interview
21 with one of the two owners. And they would make

1 a final decision. Usually they would get my
2 opinion and they would make the call.

3 Q. In terms of hiring and firing
4 telemarketers, that decision usually ended with
5 you?

6 A. Yes.

7 Q. Was there ever an occasion where it
8 ended with somebody else?

9 A. There were many occasions when a sales
10 manager would say, "This guy has got to go." And
11 I would trust his opinion that the person had to
12 go. Or another manager would be involved in the
13 situation. And, you know, my policy always was
14 that I would support my managers. So if they
15 came down and said, "This guy is terrible, he's
16 got to go today," he would usually go. I would
17 take a look at his personal file. If he had, you
18 know, any kind of problems, violations, whatever,
19 we would let him go. So I could have, in theory,
20 said, "No. He's not going." But I never felt a
21 need to do that because that kind of undermines

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1 your manager. So for the most part, I did make
2 all those decisions.

3 Sporadically, I would have somebody
4 doing interviews for me or part of the interviews
5 and hiring. But I was usually the final word on
6 it.

7 Q. You mentioned sales managers. Can you
8 identify at least some, if not all, of the sales
9 managers who worked for you?

10 A. Llewellyn Gray, Kimberly Perfetti
11 (phonetic). For a while, Keanan Kintzel served
12 as a sales manager. Mike Norville, Kathy Olive
13 (phonetic). Those were the ones who were there
14 for a period of time long enough for me to know
15 their name.

16 Q. There was fairly high turnover in that
17 job as well?

18 A. Not as much as the other jobs. But,
19 you know, most of those people were there for a
20 long period. Llewellyn Gray worked several jobs
21 for the company. He was with the company before